

## **Agenda Item: Text Amendments Related to SB300**

**TO:** Matthews Board of Commissioners  
**DATE:** February 14, 2022  
**FROM:** Nadine Bennett, Senior Planner

### **Request/Summary**

SB300, a comprehensive criminal justice reform package, was adopted into law in 2021. The law prohibits criminal enforcement of some local ordinances, including any ordinance adopted under Chapter 160D of the General Statutes (those related to land use regulations). The law does not apply to ordinances related to unsafe buildings, as outlined in Chapter 10 of the UDO.

### **Proposal/Solution**

Included with this memo are the changes incorporated into the UDO. Planning Board recommended approval.

### **Recommended Action:**

Staff recommends adoption of the revised text.

*Board of Commissioners*

**APPROVED**

*February 14, 2022*

*Lori Canapinno*

*Lori Canapinno, Town Clerk*

**DRAFT – FOR APPROVAL**

**STATEMENT OF CONSISTENCY WITH LOCAL ADOPTED GROWTH POLICIES  
Board of Commissioners Decision on Zoning-Related Issues**

ZONING APPLICATION # \_\_\_\_\_  
ZONING MOTION # \_\_\_\_\_ 2021-4 \_\_\_\_\_  
ADMINISTRATIVE AMENDMENT \_\_\_\_\_

Matthews Planning Board adopts the checked statement below:

- A) \_\_\_\_\_ The requested zoning action, as most currently amended, is recommended for **approval**, and has been found to be **CONSISTENT** with the Matthews Land Use Plan (or other document(s)), as follows:

**CONSISTENT:** The changes to the text of the UDO are consistent with the Land Use Plan, as they ensure that the development code accurately reflects statutory requirements that govern zoning in Matthews.

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**REASONABLE:** The changes are reasonable and reflect mandatory changes to the code as determined by SB300.

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**OR**

- B) \_\_\_\_\_ The requested zoning action, as most currently amended, is **not approved**, and has been found to be **INCONSISTENT** with the Matthews Land Use Plan (or other document(s)), as follows:

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*(In each case, the Statement must explain why the Board deems the action reasonable and in the public interest (more than one sentence). Reasons given for a zoning request being "consistent" or "not consistent" are not subject to judicial review.)*

Date: January 25, 2022

## **155.214. Enforcement and Penalties**

The provisions of this Title may be enforced by any one or more of the following methods, unless an alternate procedure is specifically indicated elsewhere in this Title.

- A. **EQUITABLE REMEDIES AND PROCEDURE.** The Town may apply for any appropriate equitable remedy to enforce the provisions of this Title. It is not a defense to the Town's application for equitable relief that there are other remedies provided under the general law or this Title.

The provisions of this Title may be enforced by injunction. When a violation of this Title occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt. The Town may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and materialman's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

- B. **CIVIL PENALTIES AND PROCEDURE.** If, through inspection, it is determined that a person has failed to comply with the provisions of this Title, a Town or County code enforcement official may issue a warning citation to the violator, followed by citations of specific monetary fines as outlined below. These civil penalties are in addition to any other penalties imposed by a court for violation of the provisions of this Title.

1. **LENGTH OF WARNING CITATION.** Where violations are clearly of a temporary nature and could physically be immediately corrected, the violator shall be given a twenty four (24) hour warning citation. A twenty four (24) hour citation must be hand-delivered to a responsible representative for the violator, and that individual must sign that he/she has received such citation. Where the violation can be generally believed to be corrected within a short time frame, and does not involve multiple persons' coordinated actions and/or require mechanical/vehicular tasks, the violator shall be given a three (3) day warning citation. Any other violation that may reasonably be expected to be corrected within a limited time period shall be given a ten (10) day warning citation. Delivery of a three (3) day or ten (10) day warning citation may be by hand-delivery, first class US mail, certified mail, and/or by conspicuously posting a print copy of the warning citation on the subject property. Warning citations may be sent to property owners and to occupants when they are different parties.
2. **CITATION AMOUNTS.** If the violation is not corrected within the specified time period, a citation subject to a fifty dollar (\$50.00) civil penalty may be issued. If the violation is not corrected within twenty four (24) hours, a second citation subject to a civil penalty up to two hundred dollars (\$200.00) for the same violation may be issued. Subsequent citations subject to a civil penalty up to five hundred dollars (\$500.00) may be issued for each day the violation is not corrected. Any citation not paid within fifteen (15) days of issuance shall have a ten dollar (\$10.00) delinquency charge added per citation to the amount listed on the face of the citation form.
3. **APPEAL OF WARNING CITATION.** If an individual chooses to appeal a warning citation, they must do so in writing within seventy two (72) hours of the issuance of the warning citation to the Matthews Planning and Development Department. A written appeal will stay any monetary citations from being issued. In the case of a twenty four (24) hour warning, the written appeal must be submitted to the Matthews Planning and Development Department within twenty four (24) hours in order to stay any citations with fines. An initial request for appeal may be by letter; however an appeal to the Matthews Board of Adjustment must be fully completed and returned to the Matthews Planning and Development Department within ten (10) days of the warning citation. If a letter requesting appeal is submitted but the appeal to the Board of Adjustment is not completed and submitted in the required ten (10) days time, then citations in the amounts provided above may be issued as though no request for appeal had been initiated.



4. CIVIL PENALTIES FOLLOWING A WRITTEN NOTICE OF VIOLATION. When a Notice of Violation is written by a Town or County enforcement officer, providing a thirty (30) day period to resolve the violation, and the violation remains at the conclusion of the thirty (30) days, then the Notice of Violation shall serve as the warning citation, and citations with monetary fines as provided in subparagraph 2 above may be issued. Because the written Notice of Violation includes the opportunity for appeal within the initial thirty (30) day period, there is no provision for further appeal. ('72 Code, § 24-3137.5) (Ord. 477, passed 2-8-88; Am. Ord. 591, passed 6-12-89; Ord. 1238, passed 3-11-02) [formerly known as § 153.308]

- C. ~~CRIMINAL PENALTIES. Any person, firm, or corporation convicted of a violation of any provisions of this Title shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days. After notice of a violation is given, the violator will have thirty (30) days to correct the violation. After that time, each additional day that the violation remains will be considered a separate violation. ('72 Code, § 24-1203) (Ord. 477, passed 2-8-88; Am. Ord. 763, passed 11-2-92) [formerly known as § 153.999] (RESERVED)~~

- D. CIVIL PENALTIES AND PROCEDURE FOR VIOLATIONS RELATED TO TEMPORARY USES. Because temporary business uses may set up and begin operations in a very short time frame and may not adhere to the requirements as provided in § 155.506.43, the following procedures and penalties are created for those situations.

1. WARNING OF VIOLATIONS; AUTHORITY TO ISSUE. The Zoning Administrator and the Code Enforcement Officer are empowered to issue warnings of violations to any person if there is a reasonable cause to believe that a person has violated any provision of § 155.506.43. These warnings of violation may be delivered in person to the violator, or, if the violator cannot be readily found, the warning of violation may be mailed to the last known address of the violator, or mailed or hand delivered to another individual participating with the violator in the business on the site. Warnings of violations may be issued for the following:

- a. Conducting a temporary use without a temporary use permit. A temporary use permit must be obtained within five (5) calendar days of warning issue date.
- b. Conducting a temporary use on a property that is ineligible for a temporary use as required by § 155.506.43.B.4. Business activities must cease immediately upon receipt of written notice of violation and all business-related material must be removed from the property within three (3) calendar days of warning issue date. (Ord. 1237, passed 1-14-02)
- c. Failure to cease business activities and to remove all business-related material from the property within the forty five (45) day time limit specified in § 155.506.43.B.2. Business activities must cease immediately upon receipt of written notice of violation and all business-related material must be removed from the property within three (3) calendar days of warning issue date. (Ord. 1237, passed 1-14-02)

2. CITATION. Compliance with § 155.506.43 may be enforced in any one or more of the following ways as prescribed by law.

- a. CITATION AND CIVIL PENALTY. A civil citation in the amount of one hundred dollars (\$100.00) may be levied against any person who violates any provision of § 155.506.43 and who has been issued a warning of violation and has not met the specified compliance. Additional citations in the amount of two hundred dollars (\$200.00) may be issued for the second day of violation and an additional citation in the amount of three hundred dollars (\$300.00) may be issued for a third day of violation and any subsequent days the violation continues to exist. Each and every day during which the violation continues shall be a separate and distinct offense.
- b. ~~VIOLATION A MISDEMEANOR. If a violator fails to comply with the warning of violation, the Zoning Administrator or Code Enforcement Officer may have a complaint entered against the violator and have a criminal summons issued. Upon conviction, the violator shall be subject to criminal penalty up to five hundred dollars (\$500.00) and/or up to thirty (30) days in jail as the courts may allow. [formerly known as § 153.191]~~

E. REMEDIES FOR DISTURBANCE, DESTRUCTION, OR REMOVAL OF VEGETATION AND REQUIRED LANDSCAPING. Any person, who violates any of the tree protection or landscaping provisions of § 155.606, or any Landscape Plan approved by the Town under prior Landscaping ordinance provisions, shall be subject to any one or combination of penalties prescribed in this § 155.214.

1. If a person fails to comply with any notice of violation, warning citation, or citation, as outlined above in § 155.214.A. through C., then the following penalties may be initiated. Any penalties shall be in addition to, and not in lieu of, compliance to all requirements and payment of any financial penalties.
2. Any act constituting a violation of § 155.606.13 Landscape Maintenance Standards resulting in the destruction, excessive pruning/topping, or removal of required vegetation up to twelve inches (12") DBH without approval from the Town shall be subject to a civil penalty of two dollars (\$2.00) per square foot for area damaged or destroyed, not to exceed fifty thousand dollars (\$50,000).
3. Destruction or removal of a tree greater than twelve inches (12") DBH without prior Town approval as provided at § 155.606.13.E. may be subject to a civil penalty equal to the amount of the value of the tree as listed in the most current edition of The Guide for Plant Appraisal, published by the International Society of Arboriculture in conjunction with the information provided by the Southern Chapter of the International Society of Arboriculture.
4. In the event that a Landscape Guarantee bond has not been posted and accepted by the Town and/or Mecklenburg County, and the developer and/or property owner has failed to plant the required trees and shrubs as depicted on the most current approved Landscape Plan, a ten (10) day warning citation as provided for in § 155.214.B. above, may be issued, indicating a fine of five hundred dollars (\$500.00) per tree or shrub not installed may be issued per day of ongoing violation, due within ten (10) days of day of issuance, not to exceed twenty thousand dollars (\$20,000) per day of violation. **[formerly portions of § 153.075(P)]**

F. Final Plats.

1. After the enactment date of this Title, a plat of a subdivision filed or recorded in the Mecklenburg County Register of Deeds office without approval of the Town as required by these regulations shall be null and void. No street shall be maintained by the Town, nor shall any permit be issued by an administrative agent of the Town for the construction of any building or other improvement requiring a permit, upon any land for which a plat is required to be approved, unless and until the requirements given in this Title have been fully met and the final plat has been approved.
- ~~2. Any property owner, agent of an owner, or other person, who transfers or sells land within the jurisdiction of the Town by reference to a plat showing a subdivision of land before that plat has received final Town approval and is recorded at the Register of Deeds, shall upon conviction be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500) or imprisonment not exceeding thirty (30) days, whether or not the unapproved plat is specifically mentioned in the instrument of transfer used in the process of selling or transferring that land. The Town through the Town Attorney or other official designated by the Board of Commissioners, may enjoin the transfer or sale by action for injunction. These regulations shall not affect the sale or transfer of any land, a plat of which was recorded prior to November 9, 1998. [formerly § 152.07]~~



**155.807. Violations and Enforcement [formerly § 154, Section VII]**

**A. GENERAL.**

1. **AUTHORITY TO ENFORCE.** The provisions of the PCO shall be enforced by the Storm Water Administrator, his or her designee, or any authorized agent of the Town. Whenever this section refers to the Storm Water Administrator, it includes his or her designee as well as any authorized agent of Town.
2. **VIOLATION UNLAWFUL.** Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by the PCO, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to the PCO, is unlawful and shall constitute a violation of the PCO.
3. **EACH DAY A SEPARATE OFFENSE.** Each day that a violation continues shall constitute a separate and distinct violation or offense.
4. **RESPONSIBLE PERSONS/ENTITIES.** Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of the PCO, as well as any person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of the PCO, or fails to take appropriate action, so that a violation of the PCO results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this § 155.807. For the purposes of this article, responsible person(s) shall include but not be limited to:
  - a. **PERSON MAINTAINING CONDITION RESULTING IN OR CONSTITUTING VIOLATION.** Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of the PCO, or fails to take appropriate action, so that a violation of the PCO results or persists.
  - b. **RESPONSIBILITY FOR LAND OR USE OF LAND.** The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for storm water controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property. [formerly known as § 154.071]

**B. INSPECTIONS AND INVESTIGATIONS**

1. **AUTHORITY TO INSPECT.** The Storm Water Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with the PCO, or rules or orders adopted or issued pursuant to the PCO, and to determine whether the activity is being conducted in accordance with the PCO and the approved storm water management plan, Design Manual and Administrative Manual and whether the measures required in the plan are effective. No person shall willfully resist, delay, or obstruct the Storm Water Administrator while the Storm Water Administrator is inspecting or attempting to inspect an activity under the PCO.
2. **NOTICE OF VIOLATION AND ORDER TO CORRECT.** When the Storm Water Administrator finds that any building, structure, or land is in violation of the PCO, the Storm Water Administrator shall notify in writing the responsible person/entity. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation occurred or is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. The notice shall, if required, specify a date by which the responsible person/entity must comply with the PCO, and advise that the responsible person/entity is subject to remedies and/or penalties or that failure to correct the violation within the time specified will subject the responsible person/entity to remedies and/or penalties as described in § 155.807.C In determining the measures required and the time for achieving compliance, the Storm Water Administrator shall take into consideration the technology and quantity of work required, and shall set reasonable and attainable time limits. The Storm Water Administrator may deliver the notice of violation and correction order personally, by certified or registered mail, return receipt requested, or by any means authorized for

the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Storm Water Administrator may take appropriate action, as provided in § 155.807.C, Remedies and Penalties, to correct and abate the violation and to ensure compliance with the PCO. Violations of other Chapters of this Title are a separate issue.

3. **EXTENSION OF TIME.** A responsible person/entity who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Storm Water Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the responsible person/entity requesting the extension, the Storm Water Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding sixty (60) days. The Storm Water Administrator may grant thirty (30) day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the responsible person/entity violating the PCO. The Storm Water Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order. This provision does not automatically provide the same extension for violations of any other chapter of the Town Unified Development Ordinance.
4. **PENALTIES ASSESSED CONCURRENT WITH NOTICE OF VIOLATION.** Penalties may be assessed concurrently with a notice of violation for any of the following in which case the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt:
  - a. Failure to submit a storm water management plan.
  - b. Performing activities without an approved storm water management plan.
  - c. Obstructing, hampering or interfering with an authorized representative who is in the process of carrying out official duties.
  - d. A repeated violation for which a notice was previously given on the same project and to the same responsible person/entity responsible for the violation.
  - e. Willful violation of the PCO.
  - f. Failure to install or maintain best management practices per the approved plan.
5. **AUTHORITY TO INVESTIGATE.** The Storm Water Administrator shall have the authority to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in the PCO, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting. No Person shall refuse entry or access to the Storm Water Administrator who requests entry for purpose of inspection or investigation, and who presents appropriate credentials, nor shall any Person obstruct, hamper, or interfere with the Storm Water Administrator while in the process of carrying out official duties. The Storm Water Administrator shall also have the power to require written statements, or the filing of reports under oath as part of an investigation.
6. **ENFORCEMENT AFTER TIME TO CORRECT.** After the time has expired to correct a violation, including any extension(s) if authorized by the Storm Water Administrator, the Storm Water Administrator shall determine if the violation is corrected. If the violation is not corrected, the Storm Water Administrator may act to impose one or more of the remedies and penalties authorized by § 155.807.C.
7. **EMERGENCY ENFORCEMENT.** If delay in correcting a violation would seriously threaten the effective enforcement of the PCO or pose an immediate danger to the public health, safety, or welfare, then the Storm Water Administrator may order the immediate cessation of a violation. Any Person so ordered shall cease any violation immediately. The Storm Water Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty specified in § 155.807.C. [formerly known as § 154.072]

- C. REMEDIES AND PENALTIES. The remedies and penalties provided for violations of the PCO, ~~whether civil or criminal~~, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

1. REMEDIES.

- a. WITHHOLDING OF CERTIFICATE OF OCCUPANCY. The Storm Water Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the storm water practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the described violations.
- b. DISAPPROVAL OF SUBSEQUENT PERMITS AND DEVELOPMENT APPROVALS. As long as a violation of the PCO continues and remains uncorrected, the Storm Water Administrator or other authorized agent may withhold, and the Town of Matthews may disapprove, any request for permit or development approval or authorization provided for by the PCO or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.
- c. INJUNCTION, ABATEMENTS, ETC. The Storm Water Administrator, with the written authorization of the Matthews Town Manager may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of the PCO. Any person violating the PCO shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.
- d. CORRECTION AS PUBLIC HEALTH NUISANCE, COSTS AS LIEN, ETC. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. 160A-193, the Storm Water Administrator, with the written authorization of the Town Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.
- e. RESTORATION OF AREAS AFFECTED BY FAILURE TO COMPLY. By issuance of an order of restoration, the Storm Water Administrator may require a Person who engaged in a land development activity and failed to comply with the PCO to restore the waters and land affected by such failure so as to minimize the detrimental effects of the resulting pollution. This authority is in addition to any other civil penalty or injunctive relief authorized under the PCO.

2. CIVIL PENALTIES

- a. VIOLATIONS OF ORDINANCE. A violation of any of the provisions of the PCO or rules or other orders adopted or issued pursuant to the PCO may subject the violator to a civil penalty. A civil penalty may be assessed from the date the violation occurs. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation except as provided in § 155.807.B.4 in which case the penalty is assessed concurrently with a notice of violation. Refusal to accept the notice or failure to notify the Storm Water Administrator of a change of address shall not relieve the violator's obligation to comply with the PCO or to pay such a penalty.
- b. AMOUNT OF PENALTY. The maximum civil penalty for each violation of the PCO is twenty seven thousand five hundred dollars (\$27,500.00). Each day of continuing violation shall constitute a separate violation. In determining the amount of the civil penalty, the Storm Water Administrator shall consider any relevant mitigating and aggravating factors including, but not limited to, the effect, if any, of the violation; the degree and extent of harm caused by the violation; the cost of rectifying the damage; whether the violator saved money through noncompliance; whether the violator took reasonable measures to comply with the PCO; whether the violation was committed willfully; whether the violator reported the violation to the Storm Water Administrator; and the prior record of the violator in complying or failing to comply with the PCO or any other post construction ordinance or law. The Storm Water Administrator is authorized to vary the amount of the *per diem* penalty based on criteria specified in the Administrative Manual and based on relevant



mitigating factors. Civil penalties collected pursuant to the PCO shall be credited to the Town general fund as non-tax revenue.

- c. NOTICE OF ASSESSMENT OF CIVIL PENALTY. The Storm Water Administrator shall determine the amount of the civil penalty and shall notify the violator of the amount of the penalty and the reason for assessing the penalty. This notice of assessment of civil penalty shall be served by any means authorized under G.S. 1A-1, Rule 4 and shall direct the violator to either pay the assessment or file an appeal within thirty (30) days of receipt of the notice as specified in § 155.807.C.2.e.
- d. FAILURE TO PAY CIVIL PENALTY ASSESSMENT. If a violator does not pay a civil penalty assessed by the Storm Water Administrator within thirty (30) days after it is due, or does not request a hearing as provided in § 155.807.C.2.e, the Storm Water Administrator shall request the initiation of a civil action to recover the amount of the assessment. The civil action shall be brought in Mecklenburg County Superior Court or in any other court of competent jurisdiction. A civil action must be filed within three (3) years of the date the assessment was due. An assessment that is appealed is due at the conclusion of the administrative and judicial review of the assessment.
- e. APPEAL OF REMEDY OR PENALTY. The issuance of an order of restoration and/or notice of assessment of a civil penalty by the Storm Water Administrator shall entitle the responsible party or entity to an appeal before the Storm Water Advisory Committee (SWAC) if such Person submits written demand for an appeal hearing to the Clerk of SWAC within thirty (30) days of the receipt of an order of restoration and/or notice of assessment of a civil penalty. The demand for an appeal shall be accompanied by a filing fee as established by SWAC. The appeal of an order of restoration and/or notice of assessment of a civil penalty shall be conducted as described in § 155.802.E.

3. ~~CRIMINAL PENALTIES. Violation of the PCO may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law. [formerly known as § 154.073]~~

## **155.902. General Provisions.**

- A. JURISDICTION. This Chapter shall apply to all lands in the land use jurisdiction of the Town within the area shown on the Flood Insurance Rate Maps (FIRM) or any FEMA and/or locally approved revisions to data shown on the FIRMs, as being located within the Community Special Flood Hazard Areas or land adjacent to the Community Special Flood Hazard Areas if it is affected by the work that is taking place. **[formerly known as § 151.07]**
- B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS. The FEMA and Community Flood Hazard Areas are those identified in the effective Flood Insurance Study (FIS) for Mecklenburg County dated February 19, 2014, and its accompanying Flood Insurance Rate Maps (FIRM), and local or FEMA approved revisions to the FIRM and/or FIS which are adopted by reference and declared to be a part of this Chapter. (Am. Ord. 1994, passed 2-10-14)
- In areas where a Preliminary FIRM and Preliminary FIS exist, Community Base Flood Elevations shown on the Preliminary FIRM and Preliminary FIS shall be used for local regulatory purposes, if they are higher than those shown on the effective FIRM and FIS. The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas of the Town of Matthews at the initial date of February 4, 2004 and Mecklenburg County Unincorporated Area, dated June 1, 1981. **[formerly known as § 151.08]**
- C. FLOODPLAIN DEVELOPMENT PERMIT REQUIRED. A floodplain development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities. The *Floodplain Regulations Technical Guidance Document* may be used for illustrative purposes to assist in determining the applicable type of floodplain development permit required. **[formerly known as § 151.09]**
- D. COMPLIANCE. No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. **[formerly known as § 151.10]**
- E. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this Chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of laws or ordinances or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises; nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this ordinance imposes a greater restriction upon the use of buildings or premises or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of laws or ordinances, or by such rules, regulations or permits or by such easements, covenants or agreements, the provisions of this Chapter shall control. **[formerly known as § 151.11]**
- F. INTERPRETATIONS. In the interpretation and applications of the Floodplain Regulations, all provisions shall be considered as minimum requirements; liberally construed to meet the purposes and objectives of this regulation as stated in § 155.901.D and § 155.901.E; and deemed neither to limit nor repeal any other powers granted under state statutes. **[formerly known as § 151.12]**
- G. WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Chapter does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. The Floodplain Regulations shall not create liability on the part of the Town of Matthews, Mecklenburg County, or on any agent, officer or employee thereof for any flood damages that result from reliance on this chapter or by any administrative decision lawfully made hereunder. **[formerly known as § 151.13]**
- ~~H. PENALTIES FOR VIOLATION. Violation of the provisions of this Chapter or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of floodplain development permits, variances or special exceptions, shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or~~

remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief. ~~[formerly known as § 151.14]~~